

Remarks

The Final Office Action dated September 24, 2008, lists the following rejections: claim 13 stands rejected under 35 U.S.C. § 112(1); claims 1-3, 6-10 and 13-15 stand rejected under 35 U.S.C. § 101 for allegedly being directed to non-statutory subject matter; claims 1-3, 6-7, 10 and 12-17 stand rejected under 35 U.S.C. § 103(a) as being anticipated by Suzuki (EP 1 046 983) in view of Faraboschi (U.S. Patent 5,930,508); and claims 8-9 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Suzuki in view of Faraboschi as applied to claim 1, and further in view of Iwata (US Pat No. 6,275,921) and Topham (US Patent Pub. 2001/0047466). In this discussion set forth below, Applicant does not acquiesce to any rejection or averment in this Office Action unless Applicant expressly indicates otherwise.

Applicant respectfully traverses the § 112(1) rejection of claim 13 because support for the term "computer readable medium" can be found throughout Applicant's specification. For example, paragraph 0055 of Applicant's specification discusses a computer program being stored on a storage medium such as a floppy disk or a CD-ROM. Accordingly, the § 112(1) rejection of claim 13 is improper and Applicant requests that it be withdrawn.

Applicant respectfully traverses the § 101 rejection of claim 13 because claim 13 is directed to statutory subject matter. According to M.P.E.P. § 2106.01:

Descriptive material can be characterized as either "functional descriptive material" or "nonfunctional descriptive material." In this context, "functional descriptive material" consists of data structures and computer programs which impart functionality when employed as a computer component. ... When functional descriptive material is recorded on some computer-readable medium, it becomes structurally and functionally interrelated to the medium and will be statutory in most cases since use of technology permits the function of the descriptive material to be realized.

In this instance, claim 8 is directed to a computer readable medium that comprises instructions that, when executed by a computer, cause the computer to carry out the method as claimed in claim 12. In an effort to facilitate/expedite prosecution, Applicant has amended claim 13 to be more consistent with M.P.E.P. § 2106.01. Accordingly, the § 101 rejection of claim 13 is improper and Applicant requests that it be withdrawn

Applicant respectfully traverses the § 101 rejection of claims 1-10 and 14-15 because these claims are clearly directed to statutory subject matter. Each of these claims includes physical structure such as a memory arranged to store a single instruction word and an instruction processor (which processes software). Applicant submits that a memory (which can store software) cannot be (reasonably) interpreted as being software only. As such, none of these claims fall into the excludable subject matter categories of abstract ideas, laws of nature or natural phenomena (which nevertheless are eligible for patent protection when the claim recites a practical application that transforms an article or physical object to a different state or thing or otherwise produces a useful, concrete and tangible result, as stated in M.P.E.P. § 2106(IV)(C)(2)). Therefore, claims 1-10 and 14-15 as a whole are directed to statutory subject matter. Accordingly, the § 101 rejection of claims 1-10 and 14-15 is improper and should be withdrawn.

Applicant respectfully traverses the § 103(a) rejections of claims 1-3, 6-10 and 12-17 (each of which is based on Suzuki in view of Faraboschi) because the modification of the Suzuki reference proposed by the Examiner renders Suzuki unsatisfactory for its intended purpose. *See, e.g.*, M.P.E.P. § 2143.01 (“If proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification. *In re Gordon*, 733 F.2d 900, 221 USPQ 1125 (Fed. Cir. 1984)”). In this instance, the Examiner proposes to combine Faraboschi’s teaching directed sets of dispersal bits and delimiter encoding bits (*see, e.g.*, Col. 5:12-18) with Suzuki’s combined instruction sequence (*see, e.g.*, Paragraph 045). However, a stated purpose of Suzuki is to provide a VLIW processor capable of processing a compressed program “without assigning special bits to an instruction field.” *See, e.g.*, Suzuki, paragraph 0017. As such, the Examiner’s proposed modification of adding dispersal bits and delimiter encoding bits, which are expressly taught by Faraboschi as being added to each instruction word (*see, e.g.*, Col. 4:57-60 and Col. 5:12-18), would directly undermine Suzuki’s purpose of not assigning special bits to an instruction field thereby rendering Suzuki unsatisfactory for its intended purpose. In other words, there is no motivation for the skilled artisan to combine Faraboschi’s “special bits” with Suzuki’s compression scheme because Suzuki expressly teaches avoiding techniques such as those taught by Faraboschi. Accordingly, the § 103(a)

rejections of claims 1-3, 6-10 and 12-17 are improper and Applicant requests that they be withdrawn.

Applicant further traverses the § 103(a) rejections of claims 1-3, 6-10 and 12-17 because the cited combination does not correspond to aspects of the claimed invention directed to adding control information to the single instruction word that indicates a sequential order of the first and at least second individual instructions at their respective functional units. The Examiner erroneously asserts that Faraboschi's delimiter encoding bits indicate a sequential order of each syllable of the compacted instruction. However, Faraboschi's delimiter encoding bits simply indicate the boundaries between compacted instructions that are themselves in sequential order. *See, e.g.*, Col. 5:12-18. As such, Faraboschi's delimiter encoding bits do not indicate the sequential order of the instructions, but merely the boundaries between instructions that are already in sequential order. Accordingly, the § 103(a) rejections of claims 1-3, 6-10 and 12-17 are improper and Applicant requests that they be withdrawn.

Applicant notes that a minor amendment has been made to claim 1 to improve readability by adding the word "at" in line 10, which was inadvertently omitted from the previous Response. Applicant respectfully requests that this amendment be entered as it requires only a cursory review by the Examiner. *See, e.g.*, M.P.E.P. § 714.13(II).

In view of the remarks above, Applicant believes that each of the rejections has been overcome and the application is in condition for allowance. Should there be any remaining issues that could be readily addressed over the telephone, the Examiner is asked to contact the agent overseeing the application file, Aaron Waxler, of NXP Corporation at (408) 474-9068 (or the undersigned).

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